

AMENDED IN ASSEMBLY AUGUST 21, 2006

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AMENDED IN ASSEMBLY JUNE 26, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 17, 2006

AMENDED IN SENATE MARCH 20, 2006

## **SENATE BILL**

**No. 1288**

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**Introduced by Senator Cedillo**  
*(Coauthor: Assembly Member Koretz)*

February 14, 2006

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An act to amend Section 11758.46 of the Health and Safety Code, relating to Medi-Cal.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1288, as amended, Cedillo. Medi-Cal: minors: drug and alcohol treatment.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law provides for the Medi-Cal Drug Treatment Program (Drug Medi-Cal), under which each county enters into contracts with the State Department of Alcohol and Drug Programs for the provision of various drug treatment services to Medi-Cal recipients, or the

department directly arranges for the provision of these services if a county elects not to do so.

This bill would make specified findings and declarations regarding the need for and availability of drug and alcohol treatment services to minors. It would require that residential drug and alcohol treatment services and other specified services described in the Youth Treatment Guidelines issued by the State Department of Alcohol and Drug Programs for persons 12 to 20 years of age be a covered benefit under the Medi-Cal Drug Treatment Program, ~~regardless of the availability of federal financial participation~~. The bill would require the State Department of Health Services to use its best efforts to obtain approval by the federal Centers for Medicare and Medicaid Services of a Medicaid state plan amendment providing for federal financial participation with respect to those services, but would require the services to be covered under the Medi-Cal program ~~even only~~ if federal financial participation is ~~not obtained~~ *available*. The bill would provide that county welfare departments shall not be responsible for the costs of board and care related to the provision of the above residential drug and alcohol treatment services.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2     following:  
3     (a) In the State of California very few resources exist for youth  
4     drug treatment of any kind. Even the state Drug Medi-Cal  
5     program neglects many of the drug treatment needs of youths. In  
6     a 2004 Legislative Analyst office survey of the Drug Medi-Cal  
7     program, the Office of the Legislative Analyst found that  
8     although youths compose 23 percent of the caseload for the Drug  
9     Medi-Cal program, they receive only 6 to 8 percent of the total  
10    budget. In addition, three-fourths of the Drug Medi-Cal program  
11    budget is spent on methadone treatment, a service that minors are  
12    generally prohibited from availing themselves of according to  
13    both state and federal rules. Another drug treatment resource that  
14    youths are restricted from using are the funds allocated by  
15    Proposition 36.

1 (b) In California, under current funding and licensing  
2 requirements, the only setting for residential youth alcohol and  
3 drug treatment is either a child welfare-based group home or an  
4 adult residential alcohol and drug treatment program that has a  
5 state waiver to admit a very small number of youth.

6 (c) By expanding the scope of benefits for Medi-Cal services,  
7 service providers will have an increased incentive to establish  
8 much needed substance abuse treatment facilities for youth in the  
9 community.

10 (d) Neither the reimbursement rate nor the scope of benefits of  
11 Medi-Cal drug treatment services comes close to meeting the  
12 demands of the caseload.

13 (e) The American Society of Addiction Medicine has  
14 recommended that substance abuse treatment should include a  
15 continuum of care in which preventative, outpatient, residential,  
16 and followup treatment services are available to youth suffering  
17 from substance abuse disorders.

18 (f) Our culture often views substance abuse disorders as “adult  
19 disorders,” a fact that has unfortunately resulted in an  
20 adult-driven system of care and treatment for those suffering  
21 from substance abuse disorders.

22 (g) Today, California has the highest treatment gap, on a  
23 percentage basis, in the nation for persons between the ages of 12  
24 and 20 years.

25 (h) Estimates based on the federal Substance Abuse and  
26 Mental Health Services Administration’s 2003 National Survey  
27 on Drug Use and Health indicate that, in 2002, approximately  
28 468,000 persons between the ages of 12 and 18 years in  
29 California had a substance abuse problem that warranted  
30 treatment. In that same year, only 18,965 youth in that age group  
31 were actually admitted to publicly financed substance abuse  
32 treatment.

33 (i) The Center for Substance Abuse Treatment estimates that 1  
34 in 10 adolescents who need substance abuse treatment actually  
35 receives it, and of those who receive treatment, only 25 percent  
36 receive enough treatment.

37 (j) The State Department of Education reported that, during  
38 the 2001–02 academic year, 42 percent of the 8,133 students who  
39 were expelled were mandatorily excused due to drug and alcohol  
40 violations.

(k) Various research studies, including a study conducted by the National Institute on Drug Abuse, have indicated that drug treatment programs can be effective in reducing the use of alcohol and illegal drugs, improving school attendance and performance, and reducing involvement with the criminal justice system. The State Department of Alcohol and Drug Programs has calculated the cost of residential drug treatment in the community to be one hundred seventy-five dollars (\$175) per day, per youth.

(l) Over the seven-year period between 1990 and 1997, the adult drug arrest rate in California decreased by 11 percent, whereas the juvenile drug arrest rate increased by 39 percent. No studies specific to California juvenile drug arrest rates have been conducted since 1999, so these figures are the most relevant data available.

(m) In a recent study conducted at the University of California, Los Angeles, researchers concluded that untreated addictions are what bring youths into the juvenile justice system in the first place.

(n) According to a report by the Schwab Foundation in 2004, the majority of youth entering substance abuse treatment in California are referred through the juvenile justice system.

SEC. 2. Section 11758.46 of the Health and Safety Code is amended to read:

11758.46. (a) For purposes of this section, “Drug Medi-Cal services” means all of the following services, administered by the department, and to the extent consistent with state and federal law:

(1) Narcotic treatment program services, as set forth in Section 11758.42.

(2) Day care rehabilitative services.

(3) Perinatal residential services for pregnant women and women in the postpartum period.

(4) Naltrexone services.

(5) Outpatient drug-free services.

(6) (A) For persons age 12 to 20, inclusive, the following services, as described in the Youth Treatment Guidelines issued by the department, shall be added to *the services currently available under* Drug Medi-Cal, in an effort to work towards a continuum of care for youth:

(i) Residential treatment services.

1 (ii) Family counseling.

2 (iii) Aftercare services.

3 (iv) Case management.

4 (B) Notwithstanding any other provision of law, county  
5 welfare departments shall not be responsible for the costs of  
6 board and care related to services provided pursuant to clause (i)  
7 of subparagraph (A).

8 (C) The State Department of Health Services shall use its best  
9 efforts to obtain approval by the Centers for Medicare and  
10 Medicaid Services of a Medicaid state plan amendment  
11 providing for federal financial participation with respect to the  
12 services specified in subparagraph (A). ~~However, these services~~  
13 ~~shall be covered under the Medi-Cal program regardless of the~~  
14 ~~availability of federal financial participation. The services~~  
15 *provided for under this article shall be covered under the*  
16 *Medi-Cal program only if federal financial participation is*  
17 *available.*

18 (b) Upon federal approval of a federal Medicaid state plan  
19 amendment authorizing federal financial participation in the  
20 following services, and subject to appropriation of funds, “Drug  
21 Medi-Cal services” shall also include the following services,  
22 administered by the department, and to the extent consistent with  
23 state and federal law:

24 (1) Notwithstanding subdivision (a) of Section 14132.90 of the  
25 Welfare and Institutions Code, day care habilitative services,  
26 which, for purposes of this paragraph, are outpatient counseling  
27 and rehabilitation services provided to persons with alcohol or  
28 other drug abuse diagnoses.

29 (2) Case management services, including supportive services  
30 to assist persons with alcohol or other drug abuse diagnoses in  
31 gaining access to medical, social, educational, and other needed  
32 services.

33 (3) Aftercare services.

34 (c) (1) Annually, the department shall publish procedures for  
35 contracting for Drug Medi-Cal services with certified providers  
36 and for claiming payments, including procedures and  
37 specifications for electronic data submission for services  
38 rendered.

39 (2) The department, county alcohol and drug program  
40 administrators, and alcohol and drug service providers shall

1 automate the claiming process and the process for the submission  
2 of specific data required in connection with reimbursement for  
3 Drug Medi-Cal services, except that this requirement applies  
4 only if funding is available from sources other than those made  
5 available for treatment or other services.

6 (d) A county or a contractor for the provision of Drug  
7 Medi-Cal services shall notify the department, within 30 days of  
8 the receipt of the county allocation, of its intent to contract, as a  
9 component of the single state-county contract, and provide  
10 certified services pursuant to Section 11758.42, for the proposed  
11 budget year. The notification shall include an accurate and  
12 complete budget proposal, the structure of which shall be  
13 mutually agreed to by county alcohol and drug program  
14 administrators and the department, in the format provided by the  
15 department, for specific services, for a specific time period, and  
16 including estimated units of service, estimated rate per unit  
17 consistent with law and regulations, and total estimated cost for  
18 appropriate services.

19 (e) (1) Within 30 days of receipt of the proposal described in  
20 subdivision (d), the department shall provide, to counties and  
21 contractors proposing to provide Drug Medi-Cal services in the  
22 proposed budget year, a proposed multiple-year contract, as a  
23 component of the single state-county contract, for these services,  
24 a current utilization control plan, and appropriate administrative  
25 procedures.

26 (2) A county contracting for alcohol and drug services shall  
27 receive a single state-county contract for the net negotiated  
28 amount and Drug Medi-Cal services.

29 (3) Contractors contracting for Drug Medi-Cal services shall  
30 receive a Drug Medi-Cal contract.

31 (f) (1) Upon receipt of a contract proposal pursuant to  
32 subdivision (d), a county and a contractor seeking to provide  
33 reimbursable Drug Medi-Cal services and the department may  
34 begin negotiations and the process for contract approval.

35 (2) If a county does not approve a contract by July 1 of the  
36 appropriate fiscal year, in accordance with subdivisions (c) to (e),  
37 inclusive, the county shall have 30 additional days in which to  
38 approve a contract. If the county has not approved the contract by  
39 the end of that 30-day period, the department shall contract  
40 directly for services within 30 days.

1 (3) Counties shall negotiate contracts only with providers  
2 certified to provide reimbursable Drug Medi-Cal services and  
3 that elect to participate in this program. Upon contract approval  
4 by the department, a county shall establish approved contracts  
5 with certified providers within 30 days following enactment of  
6 the annual Budget Act. A county may establish contract  
7 provisions to ensure interim funding pending the execution of  
8 final contracts, multiple-year contracts pending final annual  
9 approval by the department, and, to the extent allowable under  
10 the annual Budget Act, other procedures to ensure timely  
11 payment for services.

12 (g) (1) For counties and contractors providing Drug Medi-Cal  
13 services, pursuant to approved contracts, and that have accurate  
14 and complete claims, reimbursement for services from state  
15 General Fund moneys shall commence no later than 45 days  
16 following the enactment of the annual Budget Act for the  
17 appropriate state fiscal year.

18 (2) For counties and contractors providing Drug Medi-Cal  
19 services, pursuant to approved contracts, and that have accurate  
20 and complete claims, reimbursement for services from federal  
21 Medicaid funds shall commence no later than 45 days following  
22 the enactment of the annual Budget Act for the appropriate state  
23 fiscal year.

24 (3) The State Department of Health Services and the  
25 department shall develop methods to ensure timely payment of  
26 Drug Medi-Cal claims.

27 (4) The State Department of Health Services, in cooperation  
28 with the department, shall take steps necessary to streamline the  
29 billing system for reimbursable Drug Medi-Cal services, to assist  
30 the department in meeting the billing provisions set forth in this  
31 subdivision.

32 (h) The department shall submit a proposed interagency  
33 agreement to the State Department of Health Services by May 1  
34 for the following fiscal year. Review and interim approval of all  
35 contractual and programmatic requirements, except final fiscal  
36 estimates, shall be completed by the State Department of Health  
37 Services by July 1. The interagency agreement shall not take  
38 effect until the annual Budget Act is enacted and fiscal estimates  
39 are approved by the State Department of Health Services. Final

1 approval shall be completed within 45 days of enactment of the  
2 Budget Act.

3 (i) (1) A county or a provider certified to provide  
4 reimbursable Drug Medi-Cal services, that is contracting with the  
5 department, shall estimate the cost of those services by April 1 of  
6 the fiscal year covered by the contract, and shall amend current  
7 contracts, as necessary, by the following July 1.

8 (2) A county or a provider, except for a provider to whom  
9 subdivision (j) applies, shall submit accurate and complete cost  
10 reports for the previous state fiscal year by November 1  
11 following the end of the state fiscal year. The department may  
12 settle cost for Drug Medi-Cal services based on the cost report as  
13 the final amendment to the approved single state-county contract.

14 (j) Certified narcotic treatment program providers, that are  
15 exclusively billing the state or the county for services rendered to  
16 persons subject to Section 1210.1 of the Penal Code, Section  
17 3063.1 of the Penal Code, or Section 11758.42 shall submit  
18 accurate and complete performance reports for the previous state  
19 fiscal year by November 1 following the end of that state fiscal  
20 year. A provider to which this subdivision applies shall estimate  
21 its budgets using the uniform state monthly reimbursement rate.  
22 The format and content of the performance reports shall be  
23 mutually agreed to by the department, the County Alcohol and  
24 Drug Program Administrators Association of California, and  
25 representatives of the treatment providers.